

REMARKS/ARGUMENTS

In response to the Final Office Action mailed March 11, 2003, and the Advisory Action mailed May 30, 2003, Applicants propose to amend their application and request reconsideration in view of the proposed amendments and the following remarks in this Reply. Claims 1, 4, 8 and 11 were amended, no claims have been added, and claims 3 and 10 were cancelled without prejudice so that claims 1, 2, 4-9 and 11-15 remain pending. No new matter has been introduced.

Claims 1-2 and 6-7 were rejected as anticipated by U.S. Patent Number 6,425,898 to Wilson et al. (hereafter Wilson). This rejection is respectfully traversed.

Wilson discloses a delivery apparatus for a self-expanding stent. The delivery apparatus comprises a sheath, a shaft located coaxially within the sheath, a radiopaque fluid injection annular gap and a self-expanding stent. The sheath includes a tubular member formed from an outer polymeric layer, an inner polymeric layer and a wire reinforcing layer.

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Anticipation exists only if all of the elements of the claimed invention are present in a system or method disclosed, expressly or inherently, in a single prior art reference. Therefore, if it can be shown that there is one difference between the claimed invention and what is disclosed in the single reference, there can be no anticipation.

The present invention, as claimed in independent claim 1, is directed to a delivery apparatus for a self-expanding stent. The apparatus comprises a substantially tubular shaft and a substantially tubular sheath. The substantially tubular sheath having a proximal end, a distal end, and an enlarged section proximate the distal end. The sheath is coaxially positioned over the shaft such that the enlarged section is aligned with the stent bed of the shaft. The sheath includes an inner polymeric layer, an outer polymeric layer, and a reinforcement layer. The reinforcement layer comprises a flat wire having a substantially rectangular cross section.

Wilson fails to disclose or suggest "a reinforcement layer" comprising a flat wire having a substantially rectangular cross section as is claimed in independent claim 1. Wilson only discloses a round wire with a circular cross-section. The flat wire of the present invention reduces the profile of the sheath without sacrificing strength or flexibility. Since Wilson fails

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to disclose or suggest a wire reinforcement layer having a substantially rectangular cross section, there can be no anticipation. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 3-5 were rejected as being unpatentable over Wilson in view of U.S. Patent Number 5,176,660 to Truckai (hereinafter Truckai) and claims 8-15 were rejected as being unpatentable over Wilson in view of U.S. Patent No. 4,705,511 to Kocak (hereinafter Kocak). These rejections are respectfully traversed.

Section 103(a) of United States Code Title 35 states that subject matter developed by another person, which qualifies as prior art under one or more subsections (e), (f), and (g), of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person, or subject to an obligation of arrangement to the same person.

It is respectfully submitted that according to the Examiner, Wilson qualifies as prior art under 35 U.S.C. §102(e). It is also respectfully submitted that at the time the invention was made, the invention was owned by the same person; namely,

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Cordis Corporation, through an Assignment made in the parent case. Accordingly, under 35 U.S.C. §103, Wilson cannot be used in making an obviousness type rejection under 35 U.S.C. §103(a).

Without Wilson, Truckai and Kucak fail to disclose or even remotely suggest the claimed invention. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicants would be willing to interview the present case if the Examiner so desires. Accordingly, the Examiner is invited to call the undersigned at (732) 524-2518 if such a call would facilitate the prosecution of this application.

The Reply/Amendment raises no new issues and places the application in form for allowance. Therefore, entry is proper and earnestly solicited.

The Commissioner is hereby authorized to charge any fee pursuant to 37 C.F.R. §116 and any other fee that may be due to Deposit Account No. 10-750/CRD-940/CJE.

Respectfully submitted,



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